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9 Attorneys for United States of America

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,)
14 Plaintiff,) No. 08-2696 WHA
15 v.)
16 REAL PROPERTY AND)
17 IMPROVEMETNS LOCATED AT 4589)
18 CROOKED PRAIRIE ROAD,)
19 HUMBOLDT COUNTY, CALIFORNIA,)
ASSESSOR'S PARCEL NUMBER 221-)
181-028,)

20 Defendant.
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22 Pursuant to FRCP 26(f) and Local Rule 16-9, Plaintiff United States of America submits this
23 statement as a separate status conference statement.¹

24 1. **Jurisdiction and Service**

25 This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1355,
26 Title 21, United States Code, Section 881. All persons known to have an interest in the defendant

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28 ¹ Prior to filing this separate status conference statement, the United States contacted counsel for
claimant Ken Estes in order to draft a joint status conference statement. Because claimant counsel stated
that he had already served and filed a separate statement, the government submits this statement to
present its position on the issues.

1 property have been served. Kenneth Estes has filed a claim to the *in rem* defendant and an answer to the
2 complaint.

3 **2. Facts**

4 This is a forfeiture case. The government commenced this action with the filing of a civil
5 forfeiture complaint on May 29, 2008. On May 28, 2008, defendant real property was searched pursuant
6 to a federal search warrant and over 400 plants were discovered being grown on the property. On three
7 previous occasions, federal and state law enforcement had searched the defendant real property pursuant
8 to state and federal search warrants and discovered marijuana cultivation on each occasion. A Notice of
9 Lis Pendens was recorded on May 29, 2008. The government alleges that the defendant real property
10 was used for marijuana cultivation.

11 **3. Legal Issues**

12 The United States contends that the principal factual and legal issues in dispute are: (1) whether
13 Claimant can establish that he is an innocent owner of the defendant currency; (2) whether the
14 government can establish by a preponderance of the evidence that defendant real property is forfeitable.
15 Claimant alleges that the Tenth Amendment may have been violated, a contention the United States
16 disputes.

17 **4. Motions**

18 The government may file a motion for summary judgment following the close of discovery.

19 **5. Amendment of Pleadings**

20 At this time, the government does not anticipate filing any amended pleadings.

21 **6. Disclosures**

22 This is an *in rem* forfeiture case and is exempt from initial disclosures pursuant to Federal Rule
23 of Civil Procedure 26 (a)(1)(B)(ii).

24 **7. Discovery**

25 The parties have not engaged in any discovery at this time. The government suggests another
26 case management conference would be appropriate in four to six months.

1 **8. Class Action**

2 This is not a class action.

3 **9. Related Case**

4 The government is not aware of any related cases at this time.

5 **10. Relief/Damages**

6 The government seeks a judgment of forfeiture of the defendant property. This is not a damages
7 case.

8 **11. Settlement and ADR**

9 The parties have not yet had the opportunity to discuss settlement. At this juncture, it is
10 premature to predict the likelihood of settlement, and ADR would be of more use at a later stage after
11 initial discovery responses have been obtained.

12 **12. Consent to Magistrate Judge for All Purposes**

13 The parties have declined assignment to a magistrate judge..

14 **134. Narrowing of Issues**

15 At this juncture, it is premature to narrow the issues which the parties anticipate will be narrowed
16 through the discovery process

17 **14. Scheduling**

18 The government suggests another case management conference would be appropriate in four to
19 six months rather than scheduling discovery, pretrial and trial.

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28 UNITED STATES' CASE MANAGEMENT CONFERENCE STATEMENT

 No. 08-2696 WHA

1 **15. Trial**

2 The parties have not yet discussed any trial issues.

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4 Dated: September 3, 2008

Respectfully submitted,

5 JOSEPH P. RUSSONIELLO
6 United States Attorney

7 /s/
8 DAVID B. COUNTRYMAN
9 Assistant United States Attorney

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